



भारत का राजपत्र

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EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 11th August, 2014:—

BILL No. 94 OF 2014

A Bill further to amend the Constitution (Scheduled Castes) Order, 1950 and the Constitution (Sikkim) Scheduled Castes Order, 1978.

Be it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Scheduled Castes) Orders (Amendment) Act, 2014. Short title.

C.O. 19.

2. In the Schedule to the Constitution (Scheduled Castes) Order, 1950,—

(a) in PART VIII.—*Kerala*,—

(i) for entry 46, substitute,—

“46. Palluvan, Pulluvan”;

(ii) for entry 61, substitute,—

“61. Thandan (excluding Ezhuvans and Thiyyas who are known as Thandan, in the erstwhile Cochin and Malabar areas) and (Carpenters who are known as Thachan, in the erstwhile Cochin and Travancore State), Thachar (other than Carpenter)”;

Amendment of
Constitution
(Scheduled
Castes)
Order, 1950.

- (b) in PART IX.—*Madhya Pradesh*, for entry 18, substitute,—
“18. Dahait, Dahayat, Dahat, Dahiya”;
- (c) in PART XIII.—*Orissa*,—
(i) for “Orissa”, substitute “Odisha”;
(ii) for entry 2, substitute,—
“2. Amant, Amat, Dandachhatra Majhi, Amata, Amath”;
(iii) for entry 13, substitute,—
“13. Bedia, Bejia, Bajia”;
(iv) for entry 41, substitute,—
“41. Jaggali, Jaggili, Jagli”;
(v) for entry 69, substitute,—
“69. Pan, Pano, Buna Pana, Desua Pana, Buna Pano”;
- (d) in PART XVII.—*Tripura*,—
(i) for entry 4, substitute,—
“4. Chamar, Muchi, Chamar-Rohidas, Chamar-Ravidas”;
(ii) for entry 7, substitute,—
“7. Dhoba, Dhobi”;
(iii) for entry 12, substitute,—
“12. Jalia Kaibarta, Jhalo-Malo”.

Amendment of
Constitution
(Sikkim)
Scheduled
Castes
Order, 1978.

3. In the Schedule to the Constitution (Sikkim) Scheduled Castes Order, 1978, entry 3

C.O. 110.

shall be omitted.

STATEMENT OF OBJECTS AND REASONS

In accordance with the provisions of clause (1) of article 341 of the Constitution, six Presidential Orders were issued specifying Scheduled Castes in respect of various States and Union territories. These Orders have been amended from time to time by Acts of Parliament enacted under clause (2) of article 341 of the Constitution.

2. The State Governments of Kerala, Madhya Pradesh, Odisha, Tripura and Sikkim have proposed for certain modifications in the list of Scheduled Castes, by way of inclusion of certain communities in the case of first four States and exclusion of an entry in the case of Sikkim. The Registrar General of India and the National Commission for Scheduled Castes have conveyed their concurrence to the proposed modifications.

3. In order to give effect to the above changes, it is necessary to amend the following two Constitution (Scheduled Castes) Orders, namely:—

(i) the Constitution (Scheduled Castes) Order, 1950, in respect of Kerala, Madhya Pradesh, Odisha and Tripura; and

(ii) the Constitution (Sikkim) Scheduled Castes Order, 1978.

4. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;
The 5th, August, 2014.

THAAWAR CHAND GEHLOT

FINANCIAL MEMORANDUM

The Bill seeks to include certain synonymous communities in respect of entries in the list of Scheduled Castes for the States of Kerala, Madhya Pradesh, Odisha and Tripura. This will entail some additional recurring and non-recurring expenditure on account of benefits of schemes meant for the development of the Scheduled Castes to which the persons belonging to the newly added communities will become entitled, as a result of this Bill.

2. It is not possible to estimate with any degree of precision the likely expenditure which would have to be incurred on this account due to non availability of caste-wise data.

BILL No.95 OF 2014

A Bill to repeal certain enactments and to amend certain other enactments.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Repealing and Amending Act, 2014.

Repeal of
certain
enactments.

2. The enactments specified in the First Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Amendment
of certain
enactments.

3. The enactments specified in the Second Schedule are hereby amended to the extent and the manner mentioned in the fourth column thereof.

Savings.

4. The repeal by this Act of any enactment shall not affect any Act in which such enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE

(See Section 2)

REPEALS

Year	No.	Short title	Extent of repeal
1897	4	The Indian Fisheries Act, 1897	The whole.
1947	47	The Foreign Jurisdiction Act, 1947	The whole.
1978	49	The Sugar Undertakings (Taking Over of Management) Act, 1978	The whole.
1993	46	The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993	The whole.
1999	30	The Representation of the People (Amendment) Act, 1999	The whole.
1999	33	The Indian Majority (Amendment) Act, 1999	The whole.
1999	34	The Administrators-General (Amendment) Act, 1999	The whole.
1999	36	The Notaries (Amendment) Act, 1999	The whole .
1999	39	The Marriage Laws (Amendment) Act, 1999	The whole.
2001	30	The Repealing and Amending Act, 2001	The whole.
2001	49	The Marriage Laws (Amendment) Act, 2001	The whole.
2001	51	The Indian Divorce (Amendment) Act, 2001	The whole.
2002	26	The Indian Succession (Amendment) Act, 2002	The whole.
2002	37	The Legal Services Authorities (Amendment) Act, 2002	The whole.
2002	72	The Representation of the People (Third Amendment) Act, 2002	The whole.
2003	3	The Transfer of Property (Amendment) Act, 2002	The whole.
2003	4	The Indian Evidence (Amendment) Act, 2002	The whole.
2003	6	The Representation of the People (Second Amendment) Act, 2002	The whole.
2003	9	The Representation of the People (Amendment) Act, 2002	The whole.
2003	24	The Election Laws (Amendment) Act, 2003	The whole.
2003	40	The Representation of the People (Amendment) Act, 2003	The whole.

Year	No.	Short title	Extent of repeal
2003	46	The Election and Other Related Laws (Amendment) Act, 2003	The whole.
2003	50	The Marriage Laws (Amendment) Act, 2003	The whole.
2004	2	The Representation of the People (Second Amendment) Act, 2003	The whole.
2004	3	The Delimitation (Amendment) Act, 2003	The whole.
2005	4	The Delegated Legislation Provisions (Amendment) Act, 2004	The whole.
2005	39	The Hindu Succession (Amendment) Act, 2005	The whole.
2006	31	The Parliament (Prevention of Disqualification) Amendment Act, 2006	The whole.
2008	9	The Delimitation (Amendment) Act, 2008	The whole.
2008	10	The Representation of the People (Amendment) Act, 2008	The whole.
2009	41	The Representation of the People (Amendment) Act, 2009	The whole.
2010	30	The Personal Laws (Amendment) Act, 2010	The whole.
2010	36	The Representation of the People (Amendment) Act, 2010	The whole.
2012	29	The Anand Marriage (Amendment) Act, 2012	The whole.
2012	33	The Administrators-General (Amendment) Act, 2012	The whole.
2013	28	The Parliament (Prevention of Disqualification) Amendment Act, 2013	The whole.

THE SECOND SCHEDULE

(See section 3)

AMENDMENTS

Year	No.	Short title	Amendments
2013	25	The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013	In the proviso to sub-section (3) of section 1, for the words "the notification", the words "the said notification" shall be substituted.
2014	17	The Whistle Blowers Protection Act, 2011	(a) In the Enacting Formula, for the words "Sixty-second Year", the words "Sixty-fifth Year" shall be substituted; and (b) in sub-section (1) of section 1, for the figures "2011", the figures "2014" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

This Bill is one of those periodical measures by which enactments which have ceased to be in force or have become obsolete or the retention whereof as separate Acts is unnecessary are repealed or by which the formal defects detected in enactments are corrected.

2. The notes which follow explain the reasons for the amendments suggested in such of those items of the Bill in respect whereof some detailed explanation is necessary.

3. Clause 4 of the Bill contains a precautionary provision which it is usual to include in the Bill of this kind.

NEW DELHI;

RAVI SHANKAR PRASAD

The 6th August, 2014.

NOTES ON THE SECOND SCHEDULE

1. The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.—The amendment proposed to the Act seeks to rectify the mistake that had inadvertently crept in at the time of enactment of the Act.

2. The Whistle Blowers Protection Act, 2011.—The amendments proposed to the Act seek to rectify patent errors.

BILL NO.96 OF 2014

A Bill to regulate the procedure to be followed by the National Judicial Appointments Commission for recommending persons for appointment as the Chief Justice of India and other Judges of the Supreme Court and Chief Justices and other Judges of High Courts and for their transfers and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

Short title and commencement. **1. (1)** This Act may be called the National Judicial Appointments Commission Act, 2014.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “Chairperson” means the Chairperson of the Commission;

(b) “Commission” means the National Judicial Appointments Commission referred to in article 124A of the Constitution;

(c) “High Court” means the High Court in respect of which recommendation for appointment of a Judge is proposed to be made by the Commission;

(d) “Member” means a Member of the Commission and includes its Chairperson;

(e) “prescribed” means prescribed by the rules made under this Act;

(f) “regulations” means the regulations made by the Commission under this Act.

3. The Headquarters of the Commission shall be at Delhi.

Headquarters
of
Commission.

4. (1) The Central Government shall, within a period of thirty days from the date of coming into force of this Act, intimate the vacancies existing in the posts of Judges in the Supreme Court and in a High Court to the Commission for making its recommendations to fill up such vacancies.

Reference to
Commission
for filling up
of vacancies.

(2) The Central Government shall, six months prior to the date of occurrence of any vacancy by reason of completion of the term of a Judge of the Supreme Court or of a High Court, make a reference to the Commission for making its recommendation to fill up such vacancy.

(3) The Central Government shall, within a period of thirty days from the date of occurrence of any vacancy by reason of death or resignation of a Judge of the Supreme Court or of a High Court, make a reference to the Commission for making its recommendations to fill up such vacancy.

5. (1) The Commission shall recommend for appointment the senior-most Judge of the Supreme Court as the Chief Justice of India if he is considered fit to hold the office:

Provided that a member of the Commission whose name is being considered for recommendation shall not participate in the meeting.

Procedure for
selection of
Judge of
Supreme
Court.

(2) The Commission shall, on the basis of ability, merit and any other criteria of suitability as may be specified by regulations, recommend the name for appointment as a Judge of the Supreme Court from amongst persons who are eligible to be appointed as such under clause (3) of article 124 of the Constitution:

Provided that while making recommendation for appointment of a High Court Judge, apart from seniority, the ability and merit of such Judge shall be considered:

Provided further that the Commission shall not recommend a person for appointment if any two members of the Commission do not agree for such recommendation.

(3) The Commission may, by regulations, specify such other procedure and conditions for selection and appointment of a Judge of the Supreme Court as it may consider necessary.

6. (1) The Commission shall recommend for appointment a Judge of a High Court to be the Chief Justice of a High Court on the basis of *inter se* seniority of High Court Judges and ability, merit and any other criteria of suitability as may be specified by regulations.

Procedure for
selection of
Judge of High
Court.

(2) The Commission shall seek nomination from the Chief Justice of the concerned High Court for the purpose of recommending for appointment a person to be a Judge of that High Court.

(3) The Commission shall also on the basis of ability, merit and any other criteria of suitability as may be specified by regulations, nominate name for appointment as a Judge of a High Court from amongst persons who are eligible to be appointed as such under clause (2) of article 217 of the Constitution and forward such names to the Chief Justice of the concerned High Court for its views.

(4) Before making any nomination under sub-section (2) or giving its views under sub-section (3), the Chief Justice of the concerned High Court shall consult two senior-most Judges of that High Court and such other Judges and eminent advocates of that High Court as may be specified by regulations.

(5) After receiving views and nomination under sub-sections (2) and (3), the Commission may recommend for appointment the person who is found suitable on the basis of ability, merit and any other criteria of suitability as may be specified by regulations.

(6) The Commission shall not recommend a person for appointment under this section if any two members of the Commission do not agree for such recommendation.

(7) The Commission shall elicit in writing the views of the Governor and the Chief Minister of the State concerned before making such recommendation in such manner as may be specified by regulations.

(8) The Commission may, by regulations, specify such other procedure and conditions for selection and appointment of a Chief Justice of a High Court and a Judge of a High Court as it may consider necessary.

7. The President shall, on the recommendations made by the Commission, appoint the Chief Justice of India or a Judge of the Supreme Court or, as the case may be, the Chief Justice of a High Court or the Judge of a High Court:

Provided that the President may, if considers necessary, require the Commission to reconsider, either generally or otherwise, the recommendation made by it:

Provided further that if the Commission makes unanimous recommendation after reconsideration, the President shall make appointment accordingly.

8. (I) The Central Government may, in consultation with the Commission, appoint such number of officers and other employees for the discharge of functions of the Commission under this Act.

(2) The terms and other conditions of service of officers and other employees of the Commission appointed under sub-section (I) shall be such as may be prescribed.

(3) The Convenor of the Commission shall be the Secretary to the Government of India in the Department of Justice.

9. The Commission shall recommend for transfer of Chief Justices and other Judges of High Courts from one High Court to any other High Court, and for this purpose, specify, by regulations, the procedure for such transfer.

10. (I) The Commission shall have the power to specify, by regulations, the procedure for the discharge of its functions.

(2) The Commission shall meet at such time and place as the Chairperson may direct and observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meeting), as it may specify by regulations.

11. (I) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the fees and allowances payable to the eminent persons nominated under clause (d) of article 124A of the Constitution;

(b) the terms and other conditions of service of officers and other employees of the Commission under sub-section (2) of section 8;

Power of
President to
require
reconsideration.

Officers and
employees of
Commission.

Procedure for
transfer of
Judges.

Procedure to
be followed
by
Commission
in discharge
of its
functions.

Power to
make rules.

(c) any other matter which is to be, or may be, prescribed, in respect of which provision is to be made by the rules.

12. (1) The Commission may, by notification in the Official Gazette, make regulations consistent with this Act, and the rules made thereunder, to carry out the provisions of this Act.

Power to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the criteria of suitability with respect to appointment of a Judge of the Supreme Court under sub-section (2) of section 5;

(b) other procedure and conditions for selection and appointment of a Judge of the Supreme Court under sub-section (3) of section 5;

(c) the criteria of suitability with respect to appointment of a Judge of the High Court under sub-section (3) of section 6;

(d) other Judges and eminent advocates who may be consulted by the Chief Justice under sub-section (4) of section 6;

(e) the manner of eliciting views of the Governor and the Chief Minister under sub-section (7) of section 6;

(f) other procedure and conditions for selection and appointment of a Judge of the High Court under sub-section (8) of section 6;

(g) the procedure for transfer of Chief Justices and other Judges from one High Court to any other High Court under section 9;

(h) the procedure to be followed by the Commission in the discharge of its functions under sub-section (1) of section 10;

(i) the rules of procedure in regard to the transaction of business at the meetings of Commission, including the quorum at its meeting, under sub-section (2) of section 10;

(j) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

13. Every rule and regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Rules and regulations to be laid before Parliament.

14. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, after consultation with the Commission, by an order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of five years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

The Constitution of India contains provisions for the appointment of Judges of the Supreme Court and High Courts including the transfer of Judges from one High Court to another High Court. The Supreme Court in the matter of the Supreme Court Advocates-on-Record Association Vs. Union of India in the year 1993, and in its Advisory Opinion in 1998 in the Third Judges case, had interpreted clause (2) of article 124 and clause (1) of article 217 of the Constitution with respect to the meaning of "consultation" as "concurrence". Consequently, a Memorandum of Procedure for appointment of Judges to the Supreme Court and High Courts was formulated, and the same is being followed for appointment.

2. After review of the relevant constitutional provisions, the pronouncements of the Supreme Court and consultations with eminent Jurists, it is felt that a broad based National Judicial Appointments Commission should be established for making recommendations for appointments of Judges of the Supreme Court and High Courts. The said Commission would provide a meaningful role for the judiciary, the executive and eminent persons to present their view points and make the participants accountable, while also introducing transparency in the selection process. Keeping this in view, a Bill, namely, the Constitution (One Hundred and Twenty-first Amendment) Bill, 2014 has been introduced in Parliament which provides for the establishment of the National Judicial Appointments Commission to discharge functions specified therein.

3. The National Judicial Appointments Commission Bill, 2014 *inter alia* provides for the time frame to initiate the process of filling up of vacancies in the Supreme Court and High Courts and the procedure for selection of Chief Justice of India, Chief Justice of High Courts and Judges of the Supreme Court and High Courts. It further provides that if two members of National Judicial Appointments Commission do not agree, then the Commission shall not make such recommendation. It also provides that the President may, if necessary, require the Commission to reconsider the recommendation. However, if the Commission makes unanimous recommendations on such reconsideration, then the President shall make the appointment accordingly.

4. Further, the Bill provides that the National Judicial Appointments Commission may make regulations *inter alia* specifying the criteria of suitability with respect to the appointment of Judges of the Supreme Court and High Courts, the procedure and conditions for selection and appointment of Judge of the Supreme Court and High Court, the procedure for transfer of Judges from one High Court to another High Court and the procedure to be followed by the Commission in the discharge of its functions.

5. The National Judicial Appointments Commission Bill, 2014 seeks to broad base the appointment of Judges in the Supreme Court and High Courts, enables participation of and judiciary, executive and eminent persons and ensures greater transparency, accountability and objectivity in the appointment of the Judges in the Supreme Court and High Courts.

6. The Bill seeks to achieve the above objectives.

RAVI SHANKAR PRASAD

NEW DELHI;
The 8th August, 2014

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. K-11016/1/2009-US. II, dated 8 August, 2014 from Shri Ravi Shankar Prasad, Minister of Law and Justice to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the proposed National Judicial Appointments Commission Bill, 2014, recommends to the House for the consideration of the Bill, under article 117 (3) of the Constitution of India.

FINANCIAL MEMORANDUM

Sub-clause (*I*) of clause 8 provides that the Central Government may appoint such number of officers and other employees, as it may consider necessary, for the discharge of the functions of the National Judicial Appointments Commission.

2. Sub-clause (3) of clause 8 provides that Secretary to the Government of India in the Department of Justice shall be the Convener of the Commission.

3. Item (*a*) of sub-clause (2) of clause 11 provides that the fee and allowances payable to eminent persons shall be such as may be prescribed.

4. The expenditure on account of the aforesaid provisions would be approximately rupees three crores on account of additional requirement of personnel in addition to the existing setup/Secretariat. At this stage, it is not practicable to make an estimate of exact expenditure, both recurring and non-recurring, likely to be involved in the financial year 2014-2015. However, the expenditure would be met from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill confers power upon the Central Government to make rules for carrying out the provisions of the Bill. The matters in respect of which rules may be made are—(a) the fees and allowances payable to the eminent persons under clause (d) of article 124A of the Constitution; (b) the terms and other conditions of service of officers and other employees of the National Judicial Appointments Commission under sub-section (2) of section 8; and (c) any other matter which is to be, or may be, prescribed, in respect of which provision is to be made by the rules.

2. Clause 12 of the Bill confers power upon the National Judicial Appointments Commission to make regulations consistent with the Act and the rules made thereunder to carry out the provisions of the Act. The matters in respect of which regulations may be made are matters relating to—(a) the criteria of suitability with respect to appointment of a Judge of the Supreme Court under sub-section (2) of section 5; (b) other procedure and conditions for selection and appointment of a Judge of the Supreme Court under sub-section (3) of section 5; (c) the criteria of suitability with respect to appointment of a Judge of the High Court under sub-section (3) of section 6; (d) other Judges and eminent advocates who may be consulted by the Chief Justice under sub-section (4) of section 6; (e) the manner of eliciting views of the Governor and the Chief Minister under sub-section (7) of section 6; (f) other procedure and conditions for selection and appointment of a Judge of the High Court under sub-section (8) of section 6; (g) the procedure for transfer of Chief Justices and other Judges from one High Court to any other High Court under section 9; (h) the procedure to be followed by the Commission in the discharge of its functions under sub-section (1) of section 10; (i) the rules of procedure in regard to the transaction of business at the meetings of Commission, including the quorum at its meeting, under sub-section (2) of section 10; and (j) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

3. The rules made by the Central Government and the regulations made by the Commission shall be laid as soon as may be after they are made before each House of Parliament.

4. The matters in respect of which the rules and regulations may be made are generally matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

BILL No. 97 OF 2014

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (I) This Act may be called the Constitution (One Hundred and Twenty-first Amendment) Act, 2014.

Short title
and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 124 of the Constitution, in clause (2),—

Amendment
of article 124.

(a) for the words “after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose”, the words, figures and letter “on the recommendation of the National Judicial Appointments Commission referred to in article 124A” shall be substituted;

(b) the first proviso shall be omitted;

(c) in the second proviso, for the words “Provided further that”, the words “Provided that” shall be substituted.

Insertion of
new articles
124A, 124B
and 124C.

National
Judicial
Appointments
Commission.

3. After article 124 of the Constitution, the following articles shall be inserted, namely:—

“124A. (1) There shall be a Commission to be known as the National Judicial Appointments Commission consisting of the following, namely:—

(a) the Chief Justice of India, Chairperson, *ex officio*;

(b) two other senior Judges of the Supreme Court next to the Chief Justice of India —Members, *ex officio*;

(c) the Union Minister in charge of Law and Justice—Member, *ex officio*;

(d) two eminent persons to be nominated by the committee consisting of the Prime Minister, the Chief Justice of India and the Leader of Opposition in the House of the People or where there is no such Leader of Opposition, then, the Leader of single largest Opposition Party in the House of the People — Members:

Provided that one of the eminent person shall be nominated from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Minorities or Women:

Provided further that an eminent person shall be nominated for a period of three years and shall not be eligible for renomination.

(2) No act or proceedings of the National Judicial Appointments Commission shall be questioned or be invalidated merely on the ground of the existence of any vacancy or defect in the constitution of the Commission.

Functions of
Commission.

124B. It shall be the duty of the National Judicial Appointments Commission to—

(a) recommend persons for appointment as Chief Justice of India, Judges of the Supreme Court, Chief Justices of High Courts and other Judges of High Courts;

(b) recommend transfer of Chief Justices and other Judges of High Courts from one High Court to any other High Court; and

(c) ensure that the person recommended is of ability and integrity.

Power of
Parliament to
make law.

124C. Parliament may, by law, regulate the procedure for the appointment of Chief Justice of India and other Judges of the Supreme Court and Chief Justices and other Judges of High Courts and empower the Commission to lay down by regulations the procedure for the discharge of its functions, the manner of selection of persons for appointment and such other matters as may be considered necessary by it.”.

Amendment
of article 127.

4. In article 127 of the Constitution, in clause (1), for the words “the Chief Justice of India may, with the previous consent of the President”, the words “the National Judicial Appointments Commission on a reference made to it by the Chief Justice of India, may with the previous consent of the President” shall be substituted.

Amendment
of article 128.

5. In article 128 of the Constitution, for the words “the Chief Justice of India”, the words “the National Judicial Appointments Commission” shall be substituted.

6. In article 217 of the Constitution, in clause (1), for the portion beginning with the words “after consultation”, and ending with the words “the High Court”, the words, figures and letter “on the recommendation of the National Judicial Appointments Commission referred to in article 124A” shall be substituted.

Amendment
of article 217.

7. In article 222 of the Constitution, in clause (1), for the words “after consultation with the Chief Justice of India”, the words, figures and letter “on the recommendation of the National Judicial Appointments Commission referred to in article 124A” shall be substituted.

Amendment
of article 222.

8. In article 224 of the Constitution,—

(a) in clause (1), for the words “the President may appoint”, the words “the President may, in consultation with the National Judicial Appointments Commission, appoint” shall be substituted;

(b) in clause (2), for the words “the President may appoint”, the words “the President may, in consultation with the National Judicial Appointments Commission, appoint” shall be substituted.

9. In article 224A of the Constitution, for the words “the Chief Justice of a High Court for any State may at any time, with the previous consent of the President”, the words “the National Judicial Appointments Commission on a reference made to it by the Chief Justice of a High Court for any State, may with the previous consent of the President” shall be substituted.

Amendment
of article
224A.

10. In article 231 of the Constitution, in clause (2), sub-clause (a) shall be omitted.

Amendment
of article 231.

STATEMENT OF OBJECTS AND REASONS

The Judges of the Supreme Court are appointed under clause (2) of article 124 and the Judges of the High Courts are appointed under clause (1) of article 217 of the Constitution, by the President. The *Ad-hoc* Judges and retired Judges for the Supreme Court are appointed under clause (1) of article 127 and article 128 of the Constitution respectively. The appointment of Additional Judges and Acting Judges for the High Court is made under article 224 and the appointment of retired Judges for sittings of the High Courts is made under article 224A of the Constitution. The transfer of Judges from one High Court to another High Court is made by the President after consultation with the Chief Justice of India under clause (1) of article 222 of the Constitution.

2. The Supreme Court in the matter of the Supreme Court Advocates-on-Record Association Vs. Union of India in the year 1993, and in its Advisory Opinion in the year 1998 in the Third Judges case, had interpreted clause (2) of article 124 and clause (1) of article 217 of the Constitution with respect to the meaning of “consultation” as “concurrence”. Consequently, a Memorandum of Procedure for appointment of Judges to the Supreme Court and High Courts was formulated, and is being followed for appointment.

3. After review of the relevant constitutional provisions, the pronouncements of the Supreme Court and consultations with eminent Jurists, it is felt that a broad based National Judicial Appointments Commission should be established for making recommendations for appointment of Judges of the Supreme Court and High Courts. The said Commission would provide a meaningful role to the judiciary, the executive and eminent persons to present their view points and make the participants accountable, while also introducing transparency in the selection process.

4. The Constitution (One Hundred and Twenty-first Amendment) Bill, 2014 is an enabling constitutional amendment for amending relevant provisions of the Constitution and for setting up a National Judicial Appointments Commission. The proposed Bill seeks to insert new articles 124A, 124B and 124C after article 124 of the Constitution. The said Bill also provides for the composition and the functions of the proposed National Judicial Appointments Commission. Further, it provides that Parliament may, by law, regulate the procedure for appointment of Judges and empower the National Judicial Appointments Commission to lay down procedure by regulation for the discharge of its functions, manner of selection of persons for appointment and such other matters as may be considered necessary.

5. The proposed Bill seeks to broad base the method of appointment of Judges in the Supreme Court and High Courts, enables participation of judiciary, executive and eminent persons and ensures greater transparency, accountability and objectivity in the appointment of the Judges in the Supreme Court and High Courts.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;

RAVI SHANKAR PRASAD

The 8th August, 2014.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. K-11016/1/2009-US.II, dated 8 August, 2014 from Shri Ravi Shankar Prasad, Minister of Law and Justice to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the proposed Constitution (One Hundred and Twenty-first Amendment) Bill, 2014, recommends to the House the consideration of the Bill under article 117(3) of the Constitution of India.

P. K. GROVER,
Secretary General.